



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/547,203

08/26/2005

Michael Weiler

022862-1052

7989

23409

7590

03/31/2009

MICHAEL BEST & FRIEDRICH LLP

100 E WISCONSIN AVENUE

Suite 3300

MILWAUKEE, WI 53202

EXAMINER

GRAHAM, GARY K

ART UNIT

PAPER NUMBER

3727

MAIL DATE

DELIVERY MODE

03/31/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/547,203

Applicant(s)

WEILER ET AL.

Examiner

Gary K. Graham

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/86)
Paper No(s)/Mail Date 20050826 & 20080708
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Drawings

The drawings are objected to because there appears to be two drawings labeled as figure 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Nemic (US patent 2,799,887).

The patent to Nemic discloses the invention, a spoiler element, as is claimed. Note figure 2 of Nemic which shows spoiler element (11) for a wiper device (6-10). The spoiler element is configured to generate a flow-induced bearing force as claimed. Note that the particular wiper arm on which the spoiler is to be used does not impact the structure of the spoiler set forth in claim 11.

Claims 1-5, 7, 10-13, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Shibata (US patent 6,158,079).

The patent to Shibata discloses the invention as is claimed, including a wiper device (figs.2,4) having a wiper arm (10) with at least one elastic section (26). The arm features a wiper rod (24) and a fastening part (14) joined in a non-articulated manner. A varying transverse cross-sectional shape spoiler (18) is provided of one-piece with the fastening part to generate a flow induced bearing force. Note that the wiper rod is received in a receptacle “area” (14A, fig.5) of the spoiler element, at least as far as defined.

With respect to claims 5, 13 and 17, note locking connection (34).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-9, 11-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forster (US patent 3,480,986) in view of Hollaender et al (German publication 10111757).

The patent to Forster discloses the invention substantially as is claimed, including a wiper device (figs.6-9) for a motor vehicle. The device includes a wiper arm comprised of an elastic wiper rod (A-4) coupled in a non-articulated manner with a fastening part (19). A flexible rubber wiping element (18) is provided on the wiper rod. The rubber sleeve (28) of the element (18) is considered to be part of the wiper arm in similar fashion to applicant's figure 10+ embodiments. Such sleeve is also considered as a "receptacle area" for the wiper rod.

The patent to Forster discloses all of the above recited subject matter with the exception of a spoiler to generate a flow-induced bearing force.

The publication to Hollaender discloses a unitary, rubber wiper blade (1). The blade includes provision of a spoiler (5) and wiping lip (3) on opposite sides of an embedded supporting spring rail (4).

It would have been obvious to one of skill in the art to integrate a spoiler into the rubber wiper blade of Forster in a unitary fashion on an upper side thereof, as clearly suggested by Hollaender, to enhance downforce and blade contact with the windshield surface. Use of air spoiler or wind deflector is well known in the wiper arts.

With respect to claim 4, the receptacle area set forth above is considered as part of the spoiler element in the modified Forster device.

With respect to claim 5, 13 and 17, note locking connection (29).

With respect to claims 7 and 19, it appears the spoiler will be largely deflection resistant in a plane parallel to the windshield surface due to the spring rail or elastic wiper rod therein having a greater extent in this plane than the plane perpendicular thereto.

Claims 10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forster (US patent 3,480,986) in view of Hollaender et al (German publication 10111757), as applied to claims 1, 2, 12, 16-21 above, and further in view of Mohnach (US patent 5,392,480).

The patent s Forster and Hollaender disclose all of the above recited subject matter with the exception of the spoiler element having a changing cross-sectional shape in the longitudinal direction.

The patent to Mohnach discloses a spoiler (72) that has rounded ends (78,80).

It would have been obvious to one of skill in the art to round the ends of the spoiler of the modified Forster device, as clearly suggested by Mohnach, to reduce the number of square abrupt edges, thus reducing stress risers.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3727

GKG
29 March 2009